



Municipal Client Alert
March 2020

**GOVERNOR BAKER ISSUES EXECUTIVE ORDER TO
IMMEDIATELY ALLOW EXPANDED REMOTE
PARTICIPATION AND “ALTERNATIVE ACCESS” TO ALL
PUBLIC MEETINGS**

On March 12, 2020, as part of his authority under the State of Emergency declaration, and in response to multiple recommendations to keep distance between individuals in order to protect public health due to the coronavirus (“COVID-19”) pandemic, Governor Baker issued an Executive Order (“Order”) suspending certain provisions of the Open Meeting Law, to allow expanded remote participation and alternative access to all public meetings. The Order provides swift and much needed clarification for select boards, school committees and all other “public bodies” subject to the Open Meeting Law.

The Order authorizes public bodies “to allow remote participation by all members in any meeting of the public body.” Requirements that a quorum of a public body and the chair of the public body be physically present at the meeting are suspended.

The Order relieves the public body of the requirement that it conduct its meetings in a public place that is open and physically accessible to the public, so long as the public body makes provisions “to ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means.”

- Adequate, alternative means are measures that:
 - Provide transparency; and
 - Permit timely and effective public access to the deliberation of the public body.
- Adequate, alternative means includes providing public access through:
 - Telephone, internet, satellite enabled audio or video conferencing; or,
 - Any other technology that enables the public to clearly follow and participate in the proceedings of the public body in real time, while those activities are occurring.

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- If despite best efforts it is an economic hardship for the public body to provide alternative means of public access which ensure that the public will be able to follow the proceedings of the public body in real time, while it is occurring, the public body may instead post one of the following, as soon as practicable, on the municipal website:
 - A full and complete transcript of the meeting, or
 - A recording of the meeting, or
 - Some other comprehensive record of the proceedings.
- If actual real-time participation by the public is required under a separate state law or regulation, or local ordinance/by-law, that requirement cannot be waived.

Three important matters to note:

- This Order only applies to multiple-member bodies holding meetings under the Open Meeting Law, and does not apply to Town Meeting;
- All other provisions of the Open Meeting Law such as posting meeting notices and creating and maintaining accurate minutes, as well as the limited enumerated purposes for holding an executive session, remain in force and effect; and
- Every meeting utilizing remote participation requires that all votes be roll call votes.

The Order is effective immediately and in effect until rescinded or until the State of Emergency is terminated, whichever happens first.

This client alert was written by Karis North and reviewed by Peter Mello, Katherine Hesse and Arthur Murphy. If you have any questions, please contact Karis North, Peter Mello, or the attorney assigned to your account, or call (617) 479-5000.

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